

12:12 pm, Sep 13, 2019

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LISA BLACKMAN GRABEL,

Plaintiff,

ADOPTION ORDER

2:18-cv-1154 (ADS) (ARL)

-against-

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

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APPEARANCES:

Law Office Charles E. Binder and Harry J. Binder

Attorneys for the Plaintiff

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New York, NY 10022

By: Charles E. Binder, Esq., Of Counsel.

United States Attorneys Office, Eastern District of New York

Attorneys for the Defendant

271 Cadman Plaza East, 7th Fl.

Brooklyn, NY 11201

By: David B. Myers, Esq., Assistant United States Attorney.

SPATT, District Judge:

On February 22, 2018, the Plaintiff Lisa Blackman Grabel (the “Plaintiff” or the “Claimant”) commenced this appeal pursuant to the Social Security Act, 42 U.S.C. § 405 *et seq.* (the “Act”), challenging a final determination by the Defendant, Nancy A. Berryhill, the then Acting Commissioner of the Social Security Administration (the “Defendant” or the “Commissioner”), that she was ineligible to receive Social Security disability benefits. ECF 1.

Andrew M. Saul is now the Commissioner of the Social Security Administration. Pursuant to Federal Rule of Civil Procedure (“FED. R. CIV. P.”) 25(d), Saul is hereby substituted for Acting Commissioner Nancy A. Berryhill as the defendant in this action. *See*,

e.g., Pelaez v. Berryhill, No. 12-CV-7796, 2017 WL 6389162 (S.D.N.Y. Dec. 14, 2017), *adopted by*, 2018 WL 318478 (S.D.N.Y. Jan. 3, 2018).

On April 1, 2019, the Court referred the parties' cross motions, pursuant to FED. R. CIV. P. 12(c) for a judgment on the pleadings, to United States Magistrate Judge Arlene R. Lindsay, for a Report and Recommendation as to whether either motion should be granted, and, if so, what relief should be entered. ECF 21.

On August 27, 2019, Judge Lindsay issued the Report and Recommendation ("R&R"), recommending as follows:

In sum, the ALJ failed to provide "good reasons" for declining to accord controlling weight to the treating physicians' opinions. Such failure "by itself warrants remand." Accordingly, the undersigned respectfully recommends that the matter be remanded to allow the ALJ to properly develop and clarify his reasons for the weight assigned to Plaintiff's treating physicians as well as the consultative examiners and the medical expert witness.

ECF 22 at 30 (internal citations omitted).

It has been more than fourteen days since the service of the R&R. Neither party has filed an objection.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. *See Coburn v. P.N. Fin.*, No. 13-cv-1006 (ADS) (SIL) (reviewing Report and Recommendation without objections and for clear error).

Accordingly, the R&R is adopted in its entirety. The case is remanded to the Commissioner for further proceedings.

The Clerk of Court is directed to close the case.

SO ORDERED.

Dated: Central Islip, New York

September 13, 2019

/s/ Artur D. Spatt

ARTHUR D. SPATT

United States District Judge